



30 SEP 2003

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In re Application of :
ROITSCH :
Application No. 10/009,966 : DECISION ON
PCT No.: PCT/DE00/01944 :
Int. Filing Date: 13 June 2000 : PETITION UNDER
Priority Date: 12 June 1999 :
Atty. Docket No.: 3524/012 : 37 CFR 1.137(b)
For: Promoter System And Production :
And Use Of The Same :
:

This is in response to the petition under 37 CFR 1.137(b) filed on 09 June 2003.

BACKGROUND

This international application was filed on 13 June 2000, claimed an earliest priority date of 12 June 1999, and designated the U.S. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. On 21 December 2000, the International Bureau transmitted a copy of the published international application to the USPTO. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 12 December 2001.

On 12 December 2001, applicant filed inter alia the basic national fee.

On 01 March 2002, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to counsel, requiring the submission of a computer readable form (CRF) of the "sequence listing" in compliance with 37 CFR 1.822 and/or 1.832, an initial or substitute paper copy or compact disc of the "sequence listing," and an amendment directing its entry into the specification; and \$249 in additional claims fees.

On 03 June 2002, applicant filed a "Response To Notification of Missing Requirements Under U.S.C. 371."

On 29 July 2002, a Notification Of Defective Response (Form PCT/DO/EO/916) was mailed to applicants, again requiring the submission of a computer readable form (CRF) of the "sequence listing" in compliance with 37 CFR 1.822 and/or 1.832, an initial or substitute paper copy or compact disc of the "sequence listing," and an amendment directing its entry into the specification; and \$249 in additional claims fees. This international application became abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements and the Notification of Defective Response.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition was accompanied *inter alia* by a CRF which was not in compliance with 37 CFR 1.822 and/or 1.832. Therefore, the required reply has not been filed.

Regarding requirement (2), the petition was accompanied by the petition fee.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

Any renewed petition must be filed within **TWO MONTHS** of the mailing date of this decision and should be entitled "Renewed Petition Under 37 CFR 1.137(b)." Extension of time under 37 CFR 1.136(a) is available.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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